

000083

# REQUEST FOR COUNCIL ACTION

## CITY OF SAN DIEGO

1. CERTIFICATE NUMBER  
(FOR AUDITOR'S USE)203  
11/17

|                             |   |                                     |
|-----------------------------|---|-------------------------------------|
| TO:<br><b>CITY ATTORNEY</b> | 2. FROM (ORIGINATING DEPARTMENT):<br><b>Real Estate Assets Department</b> | 3. DATE:<br><b>October 16, 2008</b> |
|-----------------------------|---|-------------------------------------|

4. SUBJECT:  
**Authorization to Sell City-Owned Excess Real Estate and Approve Broker Commission**

|  |   |  |
|--|---|--|
| 5. PRIMARY CONTACT (NAME, PHONE, & MAIL STA.)<br><b>James F. Barwick, (619) 236-6145</b> | 6. SECONDARY CONTACT (NAME, PHONE & MAIL STA.)<br><b>B. Lane MacKenzie, (619) 236-6050 MS 51A</b> | 7. CHECK BOX IF REPORT TO COUNCIL IS ATTACHED<br><input checked="" type="checkbox"/> |
|--|---|--|

### 8. COMPLETE FOR ACCOUNTING PURPOSES

|                |  |  |  |  |   |
|----------------|--|--|--|--|---|
| FUND           |  |  |  |  | 9. ADDITIONAL INFORMATION / ESTIMATED COST:   |
| DEPT.          |  |  |  |  | Cost: None  |
| ORGANIZATION   |  |  |  |  | Fiscal Impact: Estimated revenue from sale to be deposited into Capita Outlay Fund. |
| OBJECT ACCOUNT |  |  |  |  | Job: 924025   |
| JOB ORDER      |  |  |  |  | Thomas Guide Page: 1249 B2  |
| C.I.P. NUMBER  |  |  |  |  |   |
| AMOUNT         |  |  |  |  |   |

### 10. ROUTING AND APPROVALS

| ROUTE (#) | APPROVING AUTHORITY    | APPROVAL SIGNATURE | DATE SIGNED | ROUTE (#) | APPROVING AUTHORITY    | APPROVAL SIGNATURE | DATE SIGNED |
|-----------|------------------------|--------------------|-------------|-----------|------------------------|--------------------|-------------|
| X         | ORIGINATING DEPARTMENT | <i>A. F. ...</i>   | 10/18/08    | X         | DEPUTY CHIEF           | <i>B. ...</i>      | 10/22/08    |
| X         | DSD/EAS                | <i>...</i>         | 10/16/08    |           |                        |                    |             |
|           | EOCP MEMO 5-3-96       |                    |             | X         | CITY ATTORNEY          | <i>...</i>         | 10/23/08    |
| X         | C.F.O./F.M.            | <i>...</i>         | 10/24/08    | X         | ORIGINATING DEPARTMENT | <i>...</i>         | 10/23/08    |
| X         | C.F.O./AUDITOR         | <i>...</i>         | 10/22/08    |           | DOCKET COORD:          |                    | 10/30/08    |
| X         | LIASON                 | <i>...</i>         | 10/22/08    |           | COUNCIL PRESIDENT      | <i>...</i>         | 11/17/08    |

☐ SPOB    ☐ CONSENT    ☒ ADOPTION  
☐ REFER TO: \_\_\_\_\_ COUNCIL DATE: 11/17/08

11. PREPARATION OF: ☒ RESOLUTION(S)    ☐ ORDINANCE(S)    ☐ AGREEMENT(S)    ☐ DEED(S)

1. Authorize the sale of excess City property, identified as 8110 Balboa Ave (APN 356-231-03), for a price no less than the appraised value of \$3,186,000.
  2. Authorize the Mayor or his designee to sell the Properties either by negotiation, public auction, sealed bid, or by any combination of these methods, at the discretion of the Mayor or his designee in each case.
- (continued)

11A. STAFF RECOMMENDATIONS:

Adopt the resolutions.

12. SPECIAL CONDITIONS (REFER TO A.R. 3.20 FOR INFORMATION ON COMPLETING THIS SECTION.)

COUNCIL DISTRICT: 6

COMMUNITY AREA: KEARNY MESA

ENVIRONMENTAL IMPACT: This activity is categorically exempt from CEQA pursuant to State CEQA Guidelines, Section 15312(A).

CITY CLERK INSTRUCTIONS: DO NOT RECORD. Return documents to Real Estate Assets Department, Attention: Roy Nail, M.S. 51A, for further handling.

**000084**

1472 continued

Authorization to Sell City-Owned Excess Real Estate

Job No. 924025

3. Authorize the Mayor or his designee to enter into purchase and sale agreements, close escrow with, and execute and deliver grant deeds to, the individual buyers of the Properties, at prices equal to/or greater than the stated minimum, on terms and conditions deemed reasonable and in the City's best interests by the Mayor or his designee. This authorization will be good for one year from the date of Council approval.
4. Properties that cannot be sold for the Council-approved Minimum Price, will be returned to Council for future disposition.
5. Authorize the payment of a real estate broker's of One percent (1.00%) commission to CBRE( CB Richard Ellis) relating to the sale of the Property at the discretion of the Mayor or his designee, and in conformance with San Diego Municipal Code Section 22.0905.
6. Authorize the Auditor and Comptroller to accept and deposit the proceeds of the sale of the Properties, net of costs related to the sales, into the Capital Outlay Fund

**EXECUTIVE SUMMARY SHEET**  
CITY OF SAN DIEGO

DATE ISSUED: \_\_\_\_\_ REPORT NO: \_\_\_\_\_  
ATTENTION: Council President and City Council  
ORIGINATING DEPARTMENT: Real Estate Assets Department  
SUBJECT: Sale of Excess City Real Estate  
COUNCIL DISTRICT(S): 6  
CONTACT/PHONE NUMBER: James F.Barwick-X66145 or Lane Mackenzie-X66050

REQUESTED ACTION: Authorize the sale of excess City property identified as 8110 Balboa Ave and the approval of the individual broker assignment and commission for the property.

STAFF RECOMMENDATION: Approve the requested actions

EXECUTIVE SUMMARY: In accordance with Council Policy 700-10 governing the sale and leasing of the City's Real Estate Assets, the Mayor's staff is reviewing the City's property inventory to determine which properties are no longer needed and whose disposition will provide a greater public benefit. A City-owned property may be designated for disposition if:

- The property is not currently used by a City department or supports a municipal function.
- The property is vacant and has no foreseeable use by the City.
- The property is a non-performing or under-performing asset and greater value can be generated by its sale.
- Significant economic development can be generated by selling the property.

The referenced property has have been analyzed and determined by the Mayor's staff to be excess to City needs and would best serve the City and its citizens if sold. The attached Property Information Summary Package contains all pertinent information about the property including its value as determined by a current appraisal and the reason for recommending its sale. The benefits to the City of disposing of this surplus property are as follows:

- Property tax increment will be created by returning the properties to the tax rolls.
- Stimulation of the economy by providing opportunities for private sector investment.
- Generation of revenue for the Capital Outlay Fund.

A Request for Proposal (RFP) for commercial brokerage services was issued through the City's Purchasing Department. Each proposal received was rated on its technical merit by an evaluation committee. The technical scores were then compared with the pricing proposal to select the brokerage firm to market this property.

This action requests approval of the best value proposal which reflects, in this case, the lowest commission percentage that was received through the bid process described above. CBRE (CB Richard Ellis) was selected as low bidder at a commission of 1% of the sale price.

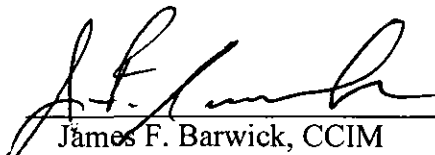
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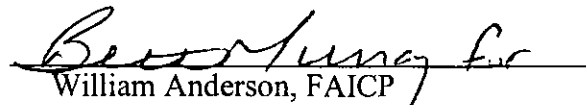
FISCAL CONSIDERATIONS: All proceeds from the sale of the properties, net of costs related to their sale, will be deposited in the Capital Outlay Fund as per City Charter Article VII. The total proceeds from these sales are estimated to be \$3,186,000.

PREVIOUS COUNCIL and/or COMMITTEE ACTION: N/A

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: N/A

KEY STAKEHOLDERS AND PROJECTED IMPACTS: The key stakeholders would be the City of San Diego which will benefit by: receipt of the sale proceeds; and additional property taxes from the return of these properties to the tax roles.

  
James F. Barwick, CCIM  
Director, Real Estate Assets

  
William Anderson, FAICP  
Deputy Chief/Chief Operating Officer  
City Planning and Development

**000087**

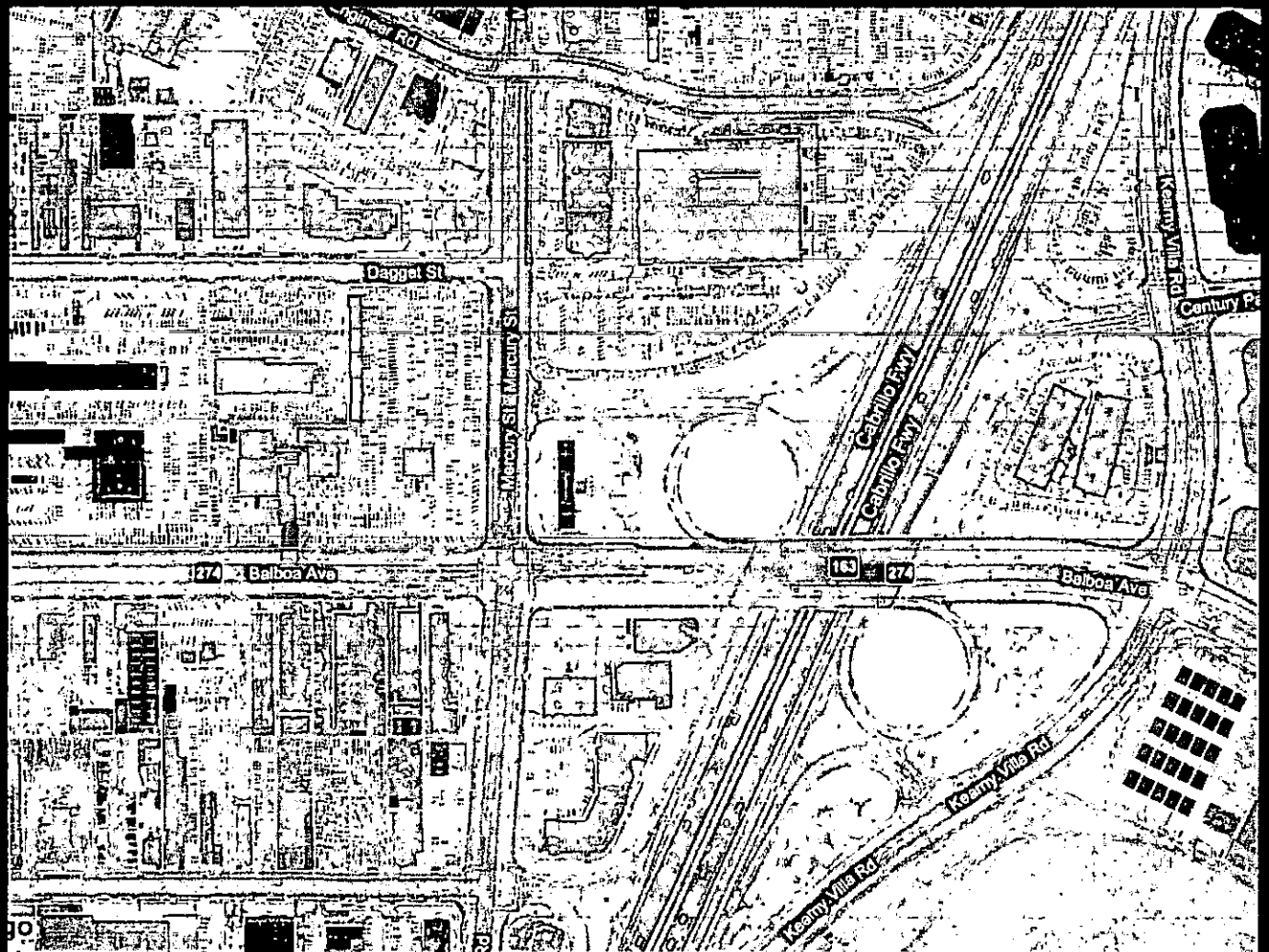
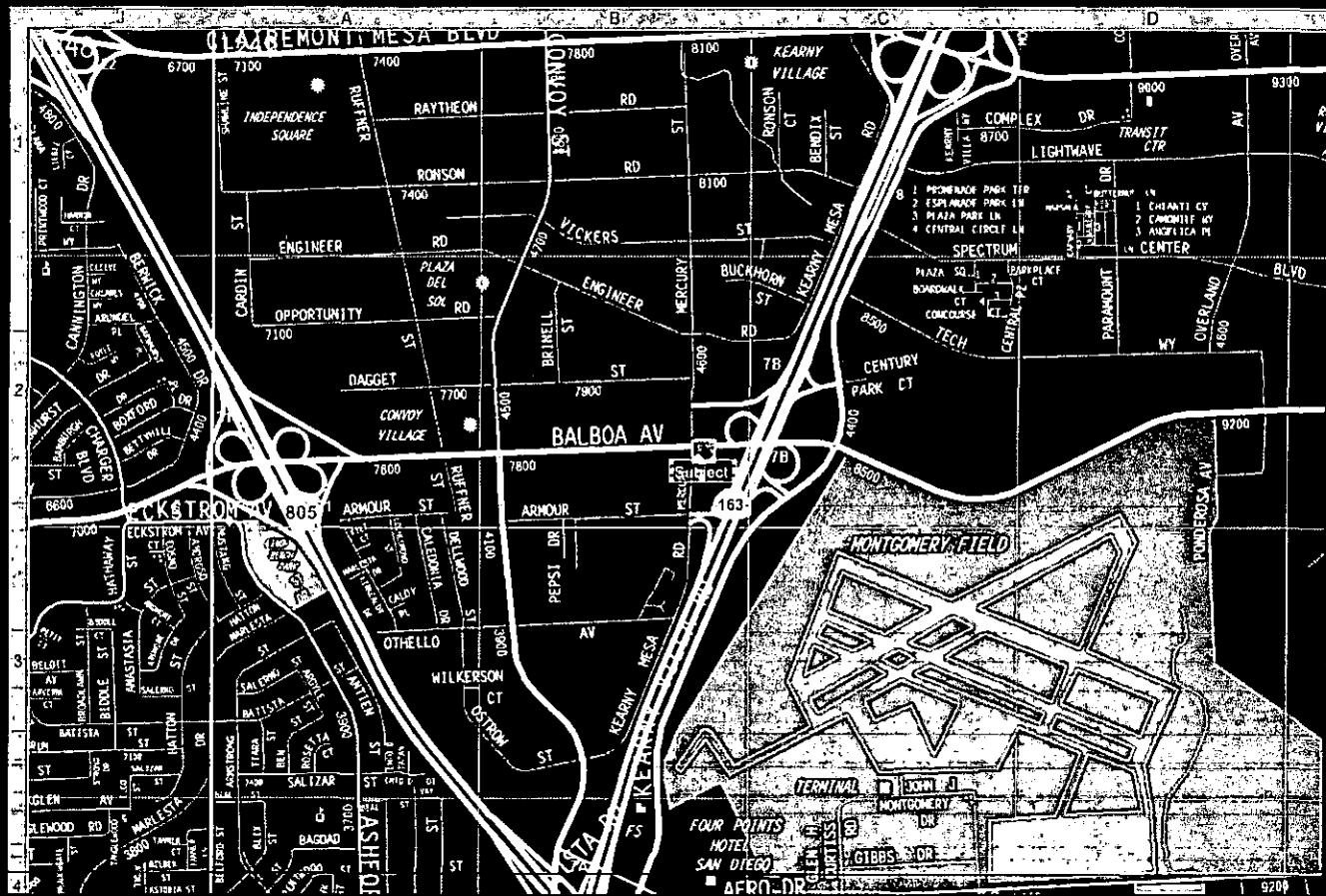
**PROPERTY INFORMATION SUMMARY**

**8110 Balboa Avenue**

- 1. Location of Property: 8110 Balboa Avenue at Mercury Street**
- 2. Legal Description: City Highlands, portion of Lot 1**
- 3. Council District: 6**
- 4. Assessors Parcel Number: 356-231-03**
- 5. Thomas Bros Map: 1249 B2**
- 6. Size of Parcel: 1.33 AC**
- 7. Improvements: Gas Station/Car Wash Owned/Maintained By Ground Lessee**
- 8. Community Plan / Designation: Kearny Mesa – general commercial**
- 9. Zoning/Allowed uses: IL-3-1 – mix of light industrial, office, and commercial**
- 10. Date of acquisition: 6-6-1952**
- 11. Acquisition Purpose: Montgomery Field (approach light lane)**
- 12. Price at acquisition: \$5,079 for a 10+ acre site**
- 13. Origin of funds at acquisition: Capital Outlay – General (Fund 302453)**
- 14. Appraised and Date of Value: Jones, Roach & Caringella M.A.I.; 9-01-08 \$ 3,186,000**
- 15. Distribution of Proceeds: General City Capital Outlay Fund 302453**
- 16. Reason for Sale: In excess of City needs**
- 17. Comments: The 55-year flat rate ground lease expires 11-11-2014. Current annual rent is \$128,000 per year, subject to “re-determination” every ten years based upon reappraisal. The last and final rent adjustment was in 2004.**
- 18. Property file: N407-1**

**DUE DILIGENCE**

The property will be sold “as is” with no warranties, usage or conditions (physical or otherwise), written, implied or expressed by the City of San Diego and its agents or employees. You are basing your purchase on the offered property solely on your findings and research, and that you have satisfied yourself as to the zoning, usage, physical condition inside and out, size and other information that might affect your decision to purchase this property. The information contained in the marketing materials is believed to be correct, however, the City of San Diego assumes no responsibility or liability for its completeness or accuracy.



RESOLUTION NUMBER R-\_\_\_\_\_

DATE OF FINAL PASSAGE \_\_\_\_\_

AUTHORIZING THE MAYOR, OR HIS DESIGNEE, TO SELL  
CERTAIN EXCESS CITY PROPERTY LOCATED AT **8110  
BALBOA AVENUE, SAN DIEGO, CA [APN 356-231-03]**.

WHEREAS, this action requires the affirmative vote of five (5) members of the City  
Council [Council]; and

WHEREAS, The City of San Diego [City] is the fee owner of that certain real property  
[Property] located at **8110 BALBOA AVENUE, SAN DIEGO, CA [APN 356-231-03]**, and  
further described in the "Property Information Summary" attached hereto; and

WHEREAS, the Council finds that at least one of the following criteria has been met: (1)  
the sale of the Property will provide revenues necessary for public facilities which are not  
fundable through other revenue sources; (2) the Property cannot be leased because of its location,  
access, topography, or other considerations; (3) the sale would enhance the City's position  
relative to other activities, such as economic development efforts; or (4) the sale would  
maximize the total economic return to the City; and

WHEREAS, an appraisal of the Property prepared or obtained by the City's Real Estate  
Assets Department [READ] has determined the fair market value [FMV] of the Property to be  
**Three Million One Hundred Eighty-Six Thousand Dollars (\$3,186,000)**; and

WHEREAS, the Property will be re-appraised at least once every twelve months until  
sold to revise the FMV upwards, which READ will report to Council; provided, however, if a re-  
appraisal results in a fair market value below the minimum price set on the date of this

Resolution, the Mayor shall seek Council approval prior to lowering the original minimum price; and

WHEREAS, the Council deems the FMV to be the minimum acceptable price to be obtained for the Property; and

WHEREAS, if after attempting to sell the Property at the FMV, the Mayor, or his designee, determines that the Property cannot be sold at or above the FMV, the Mayor shall seek review and additional direction from the Council as to the disposition of the Property; and

WHEREAS, the Council deems it in the best interests of the City to authorize the Mayor, or his designee, to sell the Property through negotiation, public auction, sealed bids, or any combination of such methods, in his discretion; and

WHEREAS, the Council deems it in the best interests of the City to authorize the Mayor, or his designee, in his discretion, to retain the services of a real estate broker to represent the City and facilitate the sale of the Property, and that the City should pay real estate brokerage participation and brokerage fees incurred thereby, in an amount determined by the Mayor, or his designee, to be reasonable and in the best interests of the City, but not to exceed 1.00% of the final sale price to CBRE (CB Richard Ellis); and

WHEREAS, all brokerage participation and brokerage fees shall comply with San Diego Municipal Code section 22.0905, Broker's Fee and Registration; and

WHEREAS, upon the sale of the Property at a price greater than or equal to the FMV, the Council deems it in the best interests of the City to authorize the Mayor, or his designee, to execute and deliver, on behalf of the City, a purchase and sale agreement, grant deed, and all



other agreements and documents necessary and on terms and conditions deemed by the Mayor, or his designee, to be reasonable and in the best interests of the City to consummate the sale; and

WHEREAS, the proceeds of the sale of the Property, net of brokerage commissions and other costs of selling the Property, will be accepted by the City Comptroller and deposited into the appropriate fund; NOW, THEREFORE,

BE IT RESOLVED, by the Council of The City of San Diego, that that certain real property [Property] owned in fee by the City, located at **8110 BALBOA AVENUE, SAN DIEGO, CA [APN 356-231-03]**, and further described in the "Property Information Summary" attached hereto, is excess City property and may be sold; and

BE IT FURTHER RESOLVED, the Property may only be sold for a price equal to or greater than **Three Million One Hundred Eighty-Six Thousand Dollars (\$3,186,000)**; and

BE IT FURTHER RESOLVED, the Mayor, or his designee, shall have the Property re-appraised at least once every twelve months until sold, and the resulting fair market value of the Property shall become the minimum acceptable price, which the Mayor or his designee shall report to Council; provided, however, if a re-appraisal results in a fair market value below the minimum price set on the date of this Resolution, the Mayor shall seek Council approval prior to lowering the original minimum price; and

BE IT FURTHER RESOLVED, the Mayor, or his designee, is authorized and directed to sell the property through negotiation, public auction, sealed bids, or any combination of such methods, in his discretion; and

BE IT FURTHER RESOLVED, the Mayor, or his designee, is authorized, in his discretion, to retain, on terms deemed by him to be reasonable and in the best interests of the

City, the services of a real estate broker to represent the City and facilitate the sale of the Property, but real estate brokerage participation and brokerage fees shall not exceed **1.00%** of the final sale price to CBRE (CB Richard Ellis); and

BE IT FURTHER RESOLVED, the payment of real estate brokerage commissions related to the sale of the Property in compliance with San Diego Municipal Code section 22.0905, Broker's Fee and Registration, is authorized; and

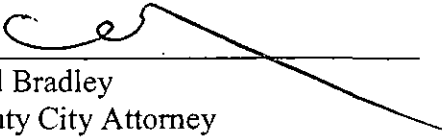
BE IT FURTHER RESOLVED, the Mayor, or his designee, is authorized to execute and deliver, on behalf of the City, a purchase and sale agreement, grant deed, and all other agreements and documents necessary and on terms and conditions deemed by the Mayor or his designee to be reasonable and in the best interests of the City to consummate the sale; and

BE IT FURTHER RESOLVED, the City Comptroller is authorized and directed to accept the proceeds of the sale of the Property, net of brokerage commissions and other costs of selling the Property, and deposit them into the Capital Outlay Fund; and

BE IT FURTHER RESOLVED, if after attempting to sell the Property at the minimum price specified herein, the Mayor or his designee determines that the Property cannot be sold at or above the minimum acceptable price, the Mayor is directed to seek review and additional direction from the Council as to the disposition of the Property.

APPROVED: MICHAEL J. AGUIRRE, City Attorney

By

  
\_\_\_\_\_  
Todd Bradley  
Deputy City Attorney

TB:bas

10/21/08

Or.Dept: READ

R-2009-517

MMS #6934

I hereby certify that the foregoing Resolution was passed by the Council of the City of San Diego, at this meeting of \_\_\_\_\_.

ELIZABETH S. MALAND  
City Clerk

By \_\_\_\_\_  
Deputy City Clerk

Approved: \_\_\_\_\_  
(date)

\_\_\_\_\_  
JERRY SANDERS, Mayor

Vetoed: \_\_\_\_\_  
(date)

\_\_\_\_\_  
JERRY SANDERS, Mayor